

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:)	Case No. 17-04034
)	
JASON LEWIS ZILBERBRAND,)	Chapter 7
)	
Debtor,)	Honorable A. Benjamin Goldgar
)	
ILENE F. GOLDSTEIN, not individually,)	
but as chapter 7 Trustee for the Estate of)	
Jason Lewis Zilberbrand,)	
)	
Plaintiff,)	
)	
v.)	Adv No. 19-ap-00129
)	
JASON LEWIS ZILBERBRAND,)	
)	
Defendant.)	

NOTICE OF MOTION

TO: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that on August 28, 2019 at 9:30 a.m., we will appear before the Honorable A. Benjamin Goldgar, Bankruptcy Judge, at the United States Bankruptcy Court for the Northern District of Illinois, 219 S. Dearborn Street, Room 642, or before any other Judge who may be sitting in his place and stead and present our **Motion For Leave to File Answer *Instantly***, a copy of which is attached hereto and served upon you herewith.

By: /s/Jeffrey C. Dan
Crane, Simon, Clar & Dan
135 S. LaSalle, #3705
Chicago, IL 60603
(312) 641-6777

CERTIFICATE OF SERVICE

The undersigned, being first duly sworn on oath deposes and states that he caused a copy of the foregoing Notice and attached Motion to be served electronically through the Court's Electronic Registration on all parties listed on the attached Service List, on the 23rd day of August, 2019.

/s/Jeffrey C. Dan

SERVICE LIST

Ilene F. Goldstein
c/o Paul M. Bauch
Lakelaw
53 W. Jackson St., #1115
Chicago, IL 60604
pbauch@lakelaw.com

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JASON LEWIS ZILBERBRAND,)	
)	
Defendant.)	

MOTION FOR LEAVE TO FILE ANSWER *INSTANTER*

JASON ZILBERBRAND, Defendant herein, by and through his attorneys, for his Motion for Leave to File Answer *Instanter*, hereby states as follows:

1. On March 12, 2019, the Trustee, Ilene F. Goldstein, filed her Complaint to Revoke Discharge.
2. On May 24, 2019, the Defendant filed his Motion to Dismiss the adversary case.
3. This Court entered a briefing schedule on the Motion to Dismiss which called for a ruling on July 31, 2019.
4. On July 18, 2019 the Court denied the Motion to Dismiss.
5. When the attorney for the Defendant received the Court's ruling on July 19, 2019, he was engaged in preparation for a trial in front of Judge Schmetterer, which began on July 23,

2019 and was completed on August 1, 2019 with written closing arguments, findings of fact and conclusions of law to be prepared by the parties and to be submitted on August 16, 2019.

6. In the midst of preparation for the other trial, the date for filing the Answer by the Defendant was inadvertently not docketed and the Answer was not filed timely.

7. The Defendant has prepared his Answer to the Complaint filed by the Trustee.

8. By this Motion, the Defendant seeks leave to file the Answer instantler.

9. There is no prejudice to the Trustee by allowing the Defendant an extension of time to file the Answer instantler.

10. The Defendant has a meritorious defense to the Complaint, as the Motion to Dismiss laid out, the issues raised in the Complaint and specifically the testimony that is referred to in the Complaint were previously testified to and addressed at the trial on the Motion to Dismiss that was heard in the Bankruptcy Case, with the Court denying that Motion to Dismiss.

11. Courts prefer not to decide cases by default due to the strong policy to decide cases on the merits. *In re Diaz*, 330 B.R. 875, 879 (Bankr. M.D.Ga. 2005), citing *Tires & Terms of Columbus, Inc.*, 262 B.R. 885, 888 (Bankr. M.D.Ga. 2000) (citing *Gulf Coast Fans, Inc. v. Midwest Electronics Importers, Inc.*, 740 F.2d 1499 (11th Cir. 1984)). See also *Sun v. Board of Trustees of the University of Illinois*, 473 F.3d 799, 811 (7th Cir. 2007) which held that the 7th Circuit has a well established policy of deciding cases on the merits rather than by default and default is unduly harsh and should only be used in extreme circumstances.

12. The Defendant has been vigorously defending this case through the Bankruptcy Case and with the Motion to Dismiss filed in this adversary. He should be entitled to present his defense to this action on the merits.

WHEREFORE, JASON ZILBERBRAND, Defendant herein, respectfully requests this Court enter an Order granting the Defendant leave to file his Answer *instanter* and for such other and further relief as this Court deems just and appropriate.

Respectfully submitted,

JASON LEWIS ZILBERBRAND

By: /s/Jeffrey C. Dan
One of His Attorneys

DEBTOR/DEFENDANT'S COUNSEL:

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